

Applicant : Bruce C. Bacon
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Remarks/Arguments:

Reconsideration of the application as amended is requested.

Applicant requests a one month extension of time to respond to the outstanding Office action, and a separate petition to this effect is enclosed.

The Examiner's remarks and cited references have been received and carefully considered. Originally presented claims 3, 26 and 42-53 inclusive have been canceled, and claims 1, 4, 7 and 30 have been amended.

The Specification has been amended to correct several grammatical errors noted during the preparation of the present response.

With respect to the Examiner's election/restriction requirement under 35 U.S.C. § 121, Applicant confirms the election of the invention of Group I (claims 1-42), and hereby withdraws his traversal of the requirement. Non-elected claims 42-53 inclusive have been canceled. Applicant reserves the right to pursue additional patent protection on this invention in a continuing application.

In response to the Examiner's objection to the drawings, Fig. 18 has been amended to change original reference numeral "84" to --85--, and original reference numeral "85" to --84--. One sheet of proposed amended drawings is submitted herewith in which the corrections are noted. Also enclosed are three sheets of formal drawings, as corrected. The Examiner's approval of the proposed drawing corrections is solicited.

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With reference to the Examiner's objections to original claims 7 and 30, while Applicant believes that the same are appropriate as filed, both subject claims have been amended herein to delete the word "improved", so as to overcome the Examiner's objection.

The Examiner rejected original claims 11-25 under 35 U.S.C. § 112 (first paragraph), as failing to comply with the enablement requirement. More specifically, the Examiner states that the specification does not support claim 11, which recites that the shank ends of the retainers are received in non-circular apertures and are deformed therein to secure the retainers. While Applicant believes that the application as originally filed supports claims 11-25, the specification has been amended to specifically recite that the shanks 84 are deformed or swaged into the notches positioned along the non-circular interior surfaces 37 of mounting apertures 11 and 15 to secure retainers 14 in housing 5. This feature of the present invention is supported not only by the drawings, in particular Fig. 18, and related specification at paragraph 36, but also original claim 11. Hence, Applicant asserts that no new matter has been added to the application.

The Examiner rejected original claims 1, 2, 27-32, 34, 35 and 37-41 under 35 U.S.C. § 102 as being anticipated by the Weinerman Patent 4,703,961. The Examiner also rejected original claims 3-9 and 26 under 35 U.S.C. § 103 as being unpatentable over the Weinerman Patent 4,703,961 in view of the Gleason Patent 5,127,686, as well as the Weinerman Patent 5,884,948. The Examiner rejected original claims 11-15 under 35 U.S.C. § 103 as

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unpatentable over the Weinerman Patent 4,703,961 in view of the Gleason Patent 5,127,686 and the Weinerman Patent 5,884,948. The Examiner rejected original claim 33 under 35 U.S.C. § 103 as unpatentable over the Weinerman Patent 4,703,961 in view of the Weinerman Patent 5,884,948. The Examiner rejected original claims 1, 2, 27-32, 35-37, 40 and 41 under 35 U.S.C. § 103 as being unpatentable over the Weinerman Patent 5,069,491 in view of the Weinerman Patent 4,703,961.

The Examiner rejected original claims 3-9 under 35 U.S.C. § 103 as be unpatentable over the Weinerman Patent 5,069,491 in view of the Weinerman Patent 4,703,961 and the Gleason Patent 5,127,686. The Examiner rejected claim 10 under 35 U.S.C. § 103 as being unpatentable over the Weinerman Patent 5,069,491 in view of the Weinerman Patent 4,703,961, the Gleason Patent 5,127,686 and the Weinerman Patent 5,884,948. The Examiner rejected original claims 11 and 12 under 35 U.S.C. § 103 as unpatentable over the Weinerman Patent 5,069,491 in view of the Weinerman Patent 4,073,961, the Gleason Patent 5,127,686, the Weinerman Patent 5,884,948 and the Post Patent 2,017,421. For those reasons set forth in detail below, Applicant asserts that the amended claims are patentable over each of the applied references, as well as the other references of record.

Original claim 1 has been amended herein to recite an improved rotary latch of the type having a rotary latch member and a pivoting release member which selectively interact to retain and release a lock strike. The rotary latch set forth in amended claim 1 includes a rigid,

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generally U-shaped housing defined by a base, opposing sidewalls integral with and upstanding from opposite sides of the base in a mutually parallel relationship, with a set of laterally aligned outwardly opening strike notches in the sidewalls to selectively receive a portion of the lock strike therein, and an upstanding end wall integral with the base and the sidewalls and disposed adjacent to the strike notches to rigidify the housing. The rotary latch set forth in amended claim 1 also includes a first set of mounting apertures extending laterally through the sidewalls of the housing about a first pivot axis disposed generally perpendicular with the sidewalls and spaced laterally apart from the strike notches, along with a first retainer extending through the first set of mounting apertures, and pivotally mounting the latch member in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls. The rotary latch set forth in amended claim 1 also recites a second set of mounting apertures extending laterally through the sidewalls of the housing about a second pivot axis disposed generally parallel with and spaced laterally apart from the first pivot axis, as well as a second retainer extending through the second set of mounting apertures, and pivotally mounting the release member in the housing between the sidewalls for rotation in a plane generally parallel with the sidewalls, and selective engagement with the latch member, wherein the first pivot axis and the second pivot axis are laterally aligned on the sidewalls to facilitate mounting the rotary latch in both left and right hand locations.

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The Weinerman et al Patent 4,703,961 discloses a rotary latch having an internal bumper block. As best illustrated in Fig. 12, the Weinerman et al '961 rotary latch includes a U-shaped housing 100 having open ends, and vertically aligned apertures 124 and 126 through which hollow pins 144 and 146 are inserted and riveted into place to interconnect the sidewalls 114 and 116 of housing 100. As the Examiner correctly points out,

“Weinerman '961 fails to disclose that the housing includes an upstanding end wall formed integrally with the base and the sidewalls at a location adjacent to the strike notches to rigidify the housing.”

Since amended claim 1 includes an upstanding end wall integral with the base and the sidewalls and disposed adjacent to the strike notch to rigidify the housing, the same is not anticipated by the Weinerman et al '961 patent, and is believed to be patentable thereover, as well as the other references of record.

The Gleason et al Patent 5,127,686 discloses a door closure assembly 10 having a latch assembly 12. As best illustrated in Figs. 4 and 5, the Gleason '686 latch assembly has an inside plate 22 and an outside plate 24 with a rotor 32, a catch 40 and a strike 48 positioned therebetween. The inside plate 22 has a substantially rectangular shape with a U-shaped cutout 23, and a substantially rectangular cutout 25, both of which are in communication with the edge of inside plate 22. The inside plate 22 and outside plate 24 have three aligned apertures 29 through which rivets 47 are inserted to pivotally mount rotor 32, catch 40 and strike 48.

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While the inside plate 22 and outside plate 24 of the Gleason '686 housing are U-shaped, and have an integral bottom, as best illustrated in Fig. 4, the closed end of the housing is not connected with the opposite sidewall. Likewise, the laterally extending tab at the open end of the Gleason '686 housing is not connected with the adjacent sidewall 22. The Gleason '686 housing appears to be formed from stamped metal, and uses the rivets 47 to provide support and interconnection between inside plate 22 and outside plate 24.

In contrast, the rotary latch recited in amended claim 1 includes a very rigid housing wherein the base, opposing sidewalls and end wall are integral with one another to form a box-like construction with one closed end and one open end. This type of construction is not disclosed or contemplated by the Gleason '686 reference, and is believed to be patentable thereover, along with the other references of record.

The Examiner takes the position that it would be obvious to one having ordinary skill in the art to combine the teachings of the Weinerman et al Patent 4,703,961 and Gleason et al Patent 5,127,686. Applicant points out that to establish a *prima facie* showing of obviousness under 35 U.S.C. § 103, the Examiner must be able to point to something in the prior art that suggests in some way the proposed modification of a particular reference, or combination with another reference, in order to arrive at the claimed invention. One skilled in the art must have been "led" or "motivated" by the teachings of the cited references to make the combination or modification proposed by the Examiner. Absent such a showing in the prior art, the Examiner

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has impermissible used Applicant's own teachings to hunt through the prior art for the claimed elements, and then combined them as claimed. Clearly, a rejection based upon a hindsight reconstruction of Applicant's own invention is improper.

In the present case, Applicant asserts that the hypothetical combination of the Weinerman Patent 4,073,961 and Gleason Patent 5,127,686 is not supported by the references themselves. Furthermore, even if some combination of the Weinerman et al Patent 4,703,961 and Gleason Patent 5,127,686 were appropriate, the same would not render obvious the rotary latch set forth in amended claim 1, which recites a very rigid housing having an integral base, opposing sidewalls and an upstanding end wall disposed adjacent to the strike notches to rigidify the housing.

The Weinerman et al Patent 5,884,948 discloses a rotary latch and lock, which as best illustrated in Figs. 13 and 14, has a rotary latch subassembly 400 with a two-part housing, comprising a cup-shaped side plate 404 and a mating flat side plate 402. The Weinerman '948 housing side plates 404 and 402 are interconnected by two bushings 406 and 408 to rotatably capture an associated pawl 420 and rotary jaw 410 therebetween. Hence, the Weinerman '948 patent does not teach or suggest the type of rigid housing, with integral base, sidewalls and end wall as set forth in amended claim 1, and discussed in detail above.

The Post Patent 2,017,421 discloses a crimp nut having a split, cylindrically-shaped body 9 that expands when axially deformed to retain the nut against the associated support

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surface. Clearly the Post '421 patent does not teach or suggest a rotary latch having a rigid U-shaped housing with integral walls, as defined in amended claim 1.

The Weinerman et al Patent 5,069,491 discloses a vehicle door lock system, which as best illustrated in Fig. 8, includes a rotary latch assembly 600, which is quite similar to the Weinerman '948 rotary latch, and includes a two-piece housing, comprising an L-shaped housing half 626 and a generally flat housing half 628 which are interconnected by three rivets 630, 632 and 634 to pivotally mount latch members 602, 614 and 604 therebetween. Clearly, the Weinerman '491 patent does not disclose the type of rigid, U-shaped housing with integral base, opposing sidewalls and end wall, as set forth in amended claim 1. The Examiner's own statement that "Weinerman '491 fails to disclose that the housing is a rigid, generally U-shaped housing" confirms Applicant's position.

Applicant has carefully reviewed the remaining references of record, and none teach or suggest the unique rotary latch having a rigid housing with integral base, opposing sidewalls and end wall as set forth in amended claim 1.

Claims 2, 4-25 and 27-41 depend either directly or indirectly from amended claim 1, and add additional structure and features thereto which serve to further distinguish the same from the references of record.

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Applicant has made a concerted effort to place this application in condition for allowance. In the event the Examiner believes additional informalities exist, the courtesy of a call to Applicant's attorney would be appreciated.

Applicant submits that the amended claims are sufficiently definite under 35 U.S.C. § 112, so as to reasonably apprise those skilled in the art as to their scope. Applicant further submits that the references of record do not teach or in any way suggest the unique rotary latch set forth in the amended claims, which provides a rigid U-shaped housing with integral base, opposing sidewalls and end wall with improved rigidity and strength. The hypothetical combination of references upon which the Examiner relied in his rejection of the original claims is simply not suggested or contemplated by the references themselves, and therefore constitutes an improper hindsight reconstruction of Applicant's own invention. Applicant's invention is directed to problems that are not addressed by any of the prior art references, and solves problems and inconveniences experienced in the prior art, thereby representing a significant advancement in the art. It is therefore respectfully submitted that claims 1-2, 4-25, and 27-41 inclusive should be allowed, since the references of record, taken singularly or in


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any combination, do not teach the rotary latch set forth therein. A notice to this effect is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence, and all identified enclosures and attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on

3/8/06



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CSC/jkrp
Enclosures

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Amendments to the Drawings:

The drawings have been amended to correct Fig. 18 by changing original reference numeral 84 to reference numeral 85 and original reference numeral 85 to reference numeral 84. The requested corrections are shown on the enclosed annotated sheet of drawings. Also enclosed are three sheets for formal drawings to replace the informal drawings filed with the application.

Attachment: Three (3) Replacement Sheets

One (1) Annotated Sheet Showing Changes Made to Fig. 18

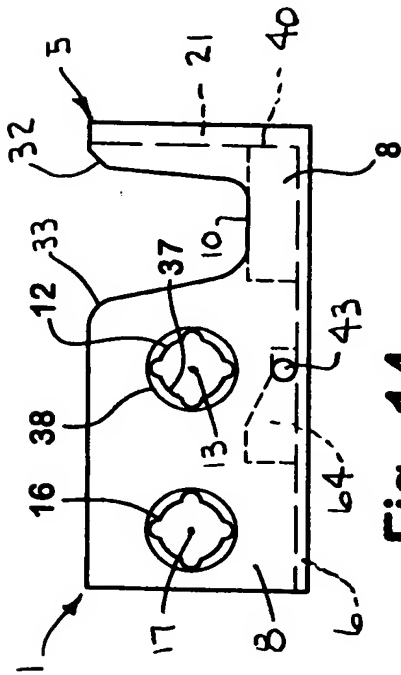


Fig. 14

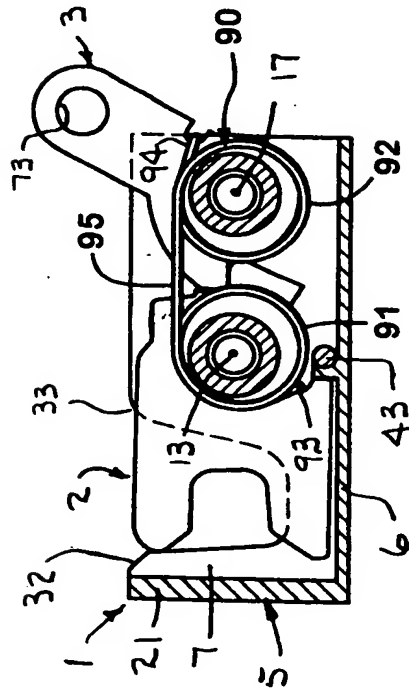


Fig. 15

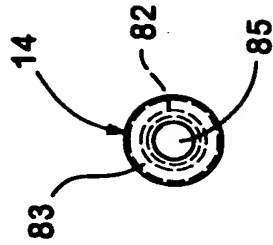


Fig. 16

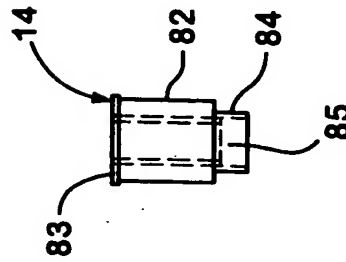


Fig. 17

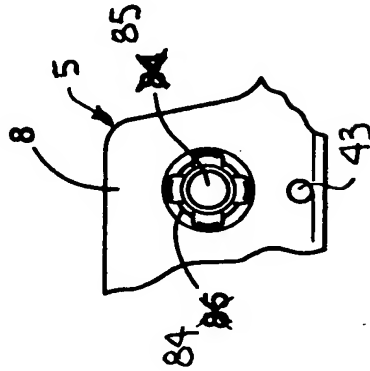


Fig. 18